

4803-C MJM; MS057

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant, the CITY OF HARVARD, by and through their attorneys, Bradford S. Purcell, Mark J. Mickiewicz, and Emily E. Schnidt of Purcell & Wardrobe, remove this action to the United States District Court for the Northern District of Illinois. The grounds for removal are as follows:

1. Plaintiffs Illinois Farmers Insurance Company, et al. filed case 2014 L A 116 in the Circuit Court of McHenry County on April 17, 2014. Plaintiffs bring a class action pursuant to 735 ILCS 5/2-801 on behalf of Illinois Farmers Insurance Company and its subsidiaries and parent companies, on behalf of all other property insurance companies, insureds of the property insurance companies, and property owners within the individual municipal Defendants' jurisdictional territories that sustained property and economic

losses. *See Exhibit A, Plaintiffs' Original Class Action Complaint and Jury Demand,* ¶ 25.

2. Plaintiffs allege, *inter alia*, that the named municipal Defendants failed to prevent and/or remedy against the rainfalls on April 17 and 18, 2013, which they claim caused sewer water invasions into the proposed class members' properties. *See Exhibit A.*
3. Against each of the 11 named McHenry County municipalities, and McHenry County, the Plaintiffs filed three counts: I. Negligent Maintenance Liability (745 ILCS §3-102(A)); II. Failure to Remedy Known Dangerous Conditions (745 ILCS §3-103(A)); III. Violation of Article I, Section 15 and the Fifth Amendment of the United States Constitution. *See Exhibit A.*
4. To date, no Defendant has been served with a copy of this Complaint. *See Exhibit B, Case No. 2014 L A 116 Docket Sheet.* This Defendant waived service and filed a Notice of Removal with the Circuit Court of McHenry County and the Northern District of Illinois.
5. Removal is proper in this matter on two bases. First, the Complaint alleges federal question transgressions in Count III based on Article 1, Section 15 and the Fifth Amendment of the United States Constitution. By reason thereof, this Court has original jurisdiction of the case pursuant to 28 U.S.C. § 1331 and § 1333(a)(3). Removal and joinder of the state law claims contained in Counts I and II is proper under 28 U.S.C. § 1441 (c).
6. Second, this Court has jurisdiction under 28 U.S.C. §1332(d)(2)(A) *et seq.*, commonly known as the "Class Action Fairness Act," because, upon information and belief, the Plaintiffs will ultimately contend that the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs; at least one member of the putative class,

namely, Farmers Insurance Exchange, is a citizen of a different state, namely, California; and the Plaintiffs purport to bring this action “on behalf of themselves and all other Similarly Situated Persons” as “a putative Plaintiff Class Action.”

7. Pursuant to 28 U.S.C. § 1441 (a), (b), and (c), Defendants respectfully seek leave to remove the action to this Court.
8. Notice of filing of this Removal has been given to the Plaintiff as required by law and is attached hereto. *See Exhibit C, Case No. 2014 L A 116 Notice of Filing Notice of Removal.* A true and correct copy of this Removal has been filed with the Clerk of the Circuit Court of McHenry County, Illinois, as provided by law. *See Exhibit D, Case No. 2014 L A 116 Notice of Removal.*
9. The Defendant herein also demands that this case be tried by a jury.

WHEREFORE, the Defendant, the CITY OF HARVARD, prays that it may affect removal of the within action from the Circuit Court of McHenry County, Illinois to the United States District Court for the Northern District of Illinois – Eastern Division, and that the matter be tried before a jury.

Respectfully submitted,
PURCELL & WARDROPE, CHTD.

/s/ Emily E. Schnidt
Emily E. Schnidt
Attorney for Defendant The City of Harvard

Bradford S. Purcell
Mark J. Mickiewicz
Emily E. Schnidt
PURCELL & WARDROPE, CHTD.
10 S. LaSalle St., Suite 1200
Chicago, Illinois 60603
Tel: (312) 427-3900
Email: EES@pw-law.com